

FILED

JUL 8 - 2008

THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF WEST VIRGINIA

U.S. DISTRICT COURT  
CLARKSBURG, WV 26301

UNITED STATES

V

DWAYNE ANDERSON

Pro Se

CASE No.: 106-CR-00020-8

DATE: 07-04-08

RE: MOTION FOR JURISDICTIONAL HEARING

MOTION

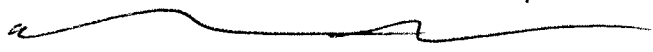
NOW COMES DWAYNE ANDERSON - PRO-SE, REQUESTING THIS HONORABLE COURT TO GRANT HIM A JURISDICTIONAL HEARING RULE 12(h)(3) RULES OF CIVIL PROCEDURE STATES THAT JURISDICTION MAY BE CHALLENGED AT ANY STAGE OF THE PROCEEDING. FEDERAL JURISDICTION CANNOT BE CONFERRED BY AGREEMENT OF PARTIES AND IRRESPECTIVE OF SUCH AGREEMENT, FEDERAL COURT HAS A DUTY ON ITS OWN MOTION TO CONSIDER WHETHER THERE IS PROPERLY FEDERAL JURISDICTION IN THE CASE BEFORE IT.

THE GOVERNMENT CONTENDS IT HAS JURISDICTION OF ALL CRIMINAL CASES BY WAY OF TITLE 18 § 3231 WHICH STATES: "THE UNITED STATES SHALL HAVE ORIGINAL JURISDICTION IN THE DISTRICT COURTS, EXCLUSIVE OF THE COURTS OF THE STATES, OF ALL OFFENSES AGAINST THE LAWS OF THE UNITED STATES. NOTHING IN THIS TITLE SHALL BE HELD TO TAKE AWAY OR IMPAIR THE JURISDICTION OF THE COURTS OF THE SEVERAL STATES UNDER THE LAWS THERE OF."

THOSE TWO TERMS, ORIGINAL AND EXCLUSIVE JURISDICTION, DESCRIBE THE DISTRICT COURTS AUTHORITY TO HEAR ONLY THOSE CRIMINAL

PROSECUTIONS THAT INVOLVE OFFENSES AGAINST THE LAWS OF THE UNITED STATES, THE OFFENSE MUST BE COMMITTED ON THE TERRITORY OR PROPERTY BELONGING TO THE UNITED STATES. ANY OFFENSE COMMITTED OUTSIDE OF TERRITORIES OR PROPERTY BELONGING TO THE UNITED STATES AND THE DISTRICT COURTS HAS NO JURISDICTION OVER THE MATTERS. EVERY PROSECUTION THAT GOES ON IN THE DISTRICT COURTS ARE BY ACTS OF CONGRESS. CONGRESS HAS POWER TO WITHDRAW OR MODIFY JURISDICTION OF DISTRICT COURTS, BUT CANNOT EXPAND JURISDICTION BEYOND THAT SPECIFIED IN ARTICLE III OF THE CONSTITUTION.

RESPECTFULLY SUBMITTED,

  
Duwayne Anderson

"WITHOUT PREJUDICE U.C.C. 1-207"